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DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

UIL:
4976.00-00

Date:

MAR 21 2000

Contact Person:

ID Number:

Telephone Number:

OP:E:EO:T2

Employer Identification Number:

Legend:
A =
B =
C =

Dear Applicant:

This is in response to your letter dated February 10, 1999, requesting the following rulings:

1. Whether the proposed transaction will adversely affect the exempt status of A or B under section 501(c)(9) of the Internal Revenue Code.

2. The merger of B into A will not result in a reversion under section 4976(b)(1)(C) of the Code.

A and B are recognized as exempt from federal income tax under section 501(c)(9) of the Code. A's primary purpose is to provide medical benefits to the employees of C. B's primary purpose is to provide dental benefits to the employees of C. All full time employees are eligible to participate in A and B. You are planning to merge B into A. All full time employees and retirees will continue to be eligible to participate in A and receive the same benefits after the merger.

You stated that the merger will facilitate the administration of providing employee health benefits. You stated that after the merger you will not have to file separate Form 5500 and Form 990 for each plan and to have separate accounts for the same employee. You stated that there is no prefunding of your retiree's benefits and thus you do not have separate accounts for your retirees' health benefits.

Section 501(c)(9) of the Code describes a voluntary employees' beneficiary association (VEBA) providing for the payment of life, sick, accident or other benefits to its members or their dependents or designated beneficiaries, and in which no part of its net earning inures (other than through such payments) to the benefit of any private shareholder or individual.

Section 1.501(c)(9)-4(a) of the Income Tax Regulations provides that no part of the net earnings of an employees' association may inure to the benefit of any private shareholder or individual other than through the payment of permissible benefits. Whether prohibited inurement has occurred is a question to be determined with regard to all the facts and circumstances.

Section 1.501(c)(9)-4(d) of the regulations provides that it will not constitute prohibited inurement if, on termination of a plan established by an employer and funded through an association described in section 501(c)(9), any assets remaining in the association, after the satisfaction of all liabilities to the existing beneficiaries of the plan, are applied to provide either directly or through the purchase of insurance, life, sick, accident or other benefits within the meaning of section 1.501(c)(9)-3 pursuant to criteria that do not provide for disproportionate benefits to officers, shareholders, or highly compensated employees of the employer. Similarly, a distribution to members upon the dissolution of the association will not constitute prohibited inurement if the amount distributed to members are determined pursuant to the terms of a collective bargaining agreement or on the basis of objective and reasonable standards which do not result in either unequal payment to similarly situated members or in disproportionate payments to officers, shareholders, or highly compensated employees of any employer contribution to or other funding the employees' association. Except as otherwise provided in the first sentence of this paragraph, if the association's corporate charter, articles of association, trust instrument or other written instrument by which the association was created, as amended from time to time, provides that on dissolution its assets will be distributed to its member's contributing employers, or if in the absence of such provision the law of the state in which the association was created provides for such distribution to the contributing employers, the association is not described in section 501(c)(9).

Section 4976 of the Code imposes an excise tax on an employer equal to 100 percent of any disqualified benefit provided by an employer maintained welfare benefit fund.

Section 4976(b)(1)(C) of the Code defines "disqualified benefit" to include any portion of a welfare benefit fund reverting to the benefit of the employer.

Section 1.501(c)(9)-4(d) of the regulations provides that a section 501(c)(9) organization may terminate by distributing its assets to members. This distribution must be on a basis of objective and reasonable standards which do not result in either unequal payment to similarly situated members or in disproportionate payments to officers, shareholders, or highly compensated employees of any employer contribution to or other funding the employees' association. The information submitted shows that the employees and retirees of B will be receiving the same benefits with the same eligibility standards after it merges with A. Thus, this merger will not result in unequal payments to similarly situated members/participants or in disproportionate payments to officers, shareholders, or highly compensated employees.

Since you will be distributing B's funds directly to the same employees after the merger, this is not a reversion of your funds to the employer within the meaning of section 4976 of the Code.

Accordingly, we rule as follows:

1. The proposed merger of B into A will not adversely affect the exempt status of either A or B under section 501(c)(9) of the Code.

2. The proposed transaction will not impose any tax of your employer, C, under section 4976 of the Code.

This ruling is directed only to the organization that requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

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We are informing the Ohio EP/EO key district office of this ruling. Because this letter could help resolve any questions about your exempt status, you should keep it in your permanent records.

If you have any questions about reporting requirements or about excise, employment, or other federal taxes, please contact the Ohio EP/EO Customer Service office at 877-829-5500 (a toll free number) or send correspondence to the following address: Internal Revenue Service, EP/EO Customer Service, P.O. Box 2508, Cincinnati, OH 45201. If you have any immediate questions about this ruling, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,
(signed) Garland A. Carter

Garland A. Carter
Manager, Exempt Organizations
Technical Group 2